

AMENDED IN SENATE MARCH 24, 2009

**SENATE BILL**

**No. 134**

---

**Introduced by Senator Liu  
(Coauthor: Senator Yee)**

February 10, 2009

---

An act to amend ~~Section 1712.1~~ of Sections 224.71 and 1712.1 of, and to add Section 209.5 to, the Welfare and Institutions Code, relating to juveniles.

LEGISLATIVE COUNSEL'S DIGEST

SB 134, as amended, Liu. Juveniles: communications with children.

*Existing law states the policy of the state that all youth confined in a facility of the Department of Corrections and Rehabilitation, Division of Juvenile Justice have the right to maintain frequent and continuing contact with parents, guardians, siblings, children, and extended family members through visits, telephone calls, and mail.*

*This bill would expand this right to include contact with the other parent of a child, and the child's caregiver, social worker, teacher, physician, and other service providers involved in the upbringing and caregiving of the child. The bill also would require local juvenile detention facilities to consider the well-being of the children of parents who are in the custody of those facilities, and for visitation policies to provide opportunities for meaningful contact between incarcerated parents and children. The bill would provide that a juvenile who is a parent, who is involved in caring for his or her child, and who is authorized for telephone communication, shall be permitted to place telephone calls to his or her child, and to the child's other parent, caregiver, social worker, teacher, physician, other service providers for the child, and any other individuals who are involved in the*

*upbringing and caregiving of the child, within the restriction policy for telephone use at the local juvenile detention facility. By imposing new and additional duties on local juvenile detention facilities, this bill would create a state-mandated local program.*

Existing law provides that a ward confined in a facility of the Department of Corrections and Rehabilitation, Division of Juvenile Facilities, is encouraged to communicate with family members, clergy, and others, and to participate in programs that will facilitate his or her education, rehabilitation, and accountability to victims, and that may help the ward become a law-abiding and productive member of society.

This bill would, if the ward has a child *and except as specified*, authorize the ward to communicate, both over the ~~phone~~ telephone and in writing, with specified persons, including the ward's child, in order to aid in the attachment and involvement of the ward in his or her child's life, to increase the ward's ability to parent the child, and to reduce the detrimental impact on the ward's child as a result of having an incarcerated parent.

*The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.*

*This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.*

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: ~~no~~-yes.

*The people of the State of California do enact as follows:*

- 1 SECTION 1. The Legislature finds and declares all of the
- 2 following:
- 3 ~~(a) Due to a lack of concrete policies that protect the rights of~~
- 4 ~~adolescents to parent their children, many incarcerated adolescent~~
- 5 *(a) Many incarcerated young parents face long periods of time*
- 6 *where they have little or no contact with their children.*
- 7 *(b) A national survey from the National Center for Juvenile*
- 8 *Justice completed in 2003 found that, of incarcerated girls, 11*
- 9 *percent 15 years of age and under, 10 percent 16 years of age, 8*

1 percent 17 years of age, and 13 percent 18 years of age, were  
2 ~~pregnant parents~~.

3 (c) The same survey found that, of incarcerated boys, 13 percent  
4 15 years of age, 15 percent 16 years of age, 17 percent 17 years  
5 of age, and 21 percent 18 years of age, were parents.

6 (d) The trauma of ~~an arrest event~~ *a parent's arrest* and the  
7 resulting parent-child separation can have profound effects on the  
8 child's development, lasting well into adulthood.

9 (e) The results of parental incarceration on the child may include  
10 difficulty sleeping, poor school performance, truancy, use of  
11 alcohol or drugs, delinquency, and an increased likelihood of  
12 ~~becoming an inmate~~ *being incarcerated* later in life; thus  
13 perpetuating intergenerational incarceration.

14 (f) ~~Communication improves the parent-child bond, which is~~  
15 ~~critical for child development. It may also reduce the child's~~  
16 ~~feelings of loneliness, fear, sadness, anxiety, and emotional~~  
17 ~~withdrawal.~~ *with a parent provides the foundation necessary for*  
18 *children to thrive and become productive members of society.*

19 (g) Programs created to promote positive contact between  
20 incarcerated parents and their children have been shown to decrease  
21 the negative impact of the parent's imprisonment on the child.

22 (h) Empirical studies have found that increased contact between  
23 ~~inmates~~ *those who are incarcerated* and their families can  
24 contribute to the reintegration of the ~~inmates~~ *incarcerated youth*  
25 into the community after release. Successful reintegration can  
26 reduce recidivism.

27 (i) Encouraging communication between ~~incarcerated~~  
28 ~~adolescents~~ *young parents* and their children will benefit the state  
29 by contributing to decreased recidivism rates among incarcerated  
30 ~~adolescent~~ *young* parents, decreasing the likelihood that their  
31 children will one day be involved with the criminal justice system,  
32 and allowing for better reintegration of incarcerated ~~adolescents~~  
33 *youth* into their families and communities upon their release.

34 (j) It is imperative to intervene ~~into~~ *in* this cycle of incarceration,  
35 and this act targets the children that are most at risk for later  
36 involvement with the criminal justice system — the children of  
37 incarcerated ~~adolescent~~ *young* parents.

38 SEC. 2. Section 209.5 is added to the Welfare and Institutions  
39 Code, to read:

1     209.5. (a) *Local juvenile detention facilities shall consider the*  
2 *well-being of the children of parents who are in the custody of*  
3 *those facilities. Visitation policies shall provide opportunities for*  
4 *meaningful contact between incarcerated parents and their*  
5 *children. “Meaningful contact” shall include, when feasible,*  
6 *contact visits.*

7     (b) *A juvenile who is a parent, who is involved in caring for his*  
8 *or her child, and who is authorized for telephone communication,*  
9 *shall be permitted to place telephone calls to his or her child, and*  
10 *to the child’s other parent, caregiver, social worker, teacher,*  
11 *physician, other service providers for the child, and any other*  
12 *individuals who are involved in the upbringing and caregiving of*  
13 *the child, within the restriction policy for telephone use at the local*  
14 *juvenile detention facility. Nothing in this subdivision shall change*  
15 *the number of calls, length of calls, and call schedule as defined*  
16 *by the restriction policy for telephone use.*

17     (c) *As used in this section, “local juvenile detention facility”*  
18 *means any city, county, or regional facility used for the confinement*  
19 *of juveniles for more than 24 hours.*

20     SEC. 3. *Section 224.71 of the Welfare and Institutions Code*  
21 *is amended to read:*

22     224.71. *It is the policy of the state that all youth confined in a*  
23 *facility of the Division of Juvenile Facilities shall have the*  
24 *following rights:*

25     (a) *To live in a safe, healthy, and clean environment conducive*  
26 *to treatment and rehabilitation and where they are treated with*  
27 *dignity and respect.*

28     (b) *To be free from physical, sexual, emotional, or other abuse,*  
29 *or corporal punishment.*

30     (c) *To receive adequate and healthy food and water, sufficient*  
31 *personal hygiene items, and clothing that is adequate and clean.*

32     (d) *To receive adequate and appropriate medical, dental, vision,*  
33 *and mental health services.*

34     (e) *To refuse the administration of psychotropic and other*  
35 *medications consistent with applicable law or unless immediately*  
36 *necessary for the preservation of life or the prevention of serious*  
37 *bodily harm.*

38     (f) *To not be searched for the purpose of harassment or*  
39 *humiliation or as a form of discipline or punishment.*

1 (g) To maintain frequent and continuing contact with parents,  
2 guardians, siblings, children, *the other parent of a child and the*  
3 *child's caregiver, social worker, teacher, physician, and other*  
4 *service providers involved in the upbringing and caregiving of the*  
5 *child*, and extended family members; through visits, telephone  
6 calls, and mail.

7 (h) To make and receive confidential telephone calls, send and  
8 receive confidential mail, and have confidential visits with  
9 attorneys and their authorized representatives, ombudspersons and  
10 other advocates, holders of public office, state and federal court  
11 personnel, and legal service organizations.

12 (i) To have fair and equal access to all available services,  
13 placement, care, treatment, and benefits, and to not be subjected  
14 to discrimination or harassment on the basis of actual or perceived  
15 race, ethnic group identification, ancestry, national origin, color,  
16 religion, sex, sexual orientation, gender identity, mental or physical  
17 disability, or HIV status.

18 (j) To have regular opportunity for age-appropriate physical  
19 exercise and recreation, including time spent outdoors.

20 (k) To contact attorneys, ombudspersons and other advocates,  
21 and representatives of state or local agencies, regarding conditions  
22 of confinement or violations of rights, and to be free from  
23 retaliation for making these contacts or complaints.

24 (l) To participate in religious services and activities of their  
25 choice.

26 (m) To not be deprived of any of the following as a disciplinary  
27 measure: food, contact with parents, guardians, or attorneys, sleep,  
28 exercise, education, bedding, access to religious services, a daily  
29 shower, a drinking fountain, a toilet, medical services, reading  
30 material, or the right to send and receive mail.

31 (n) To receive a quality education that complies with state law,  
32 to attend age-appropriate school classes and vocational training,  
33 and to continue to receive educational services while on  
34 disciplinary or medical status.

35 (o) To attend all court hearings pertaining to them.

36 (p) To have counsel and a prompt probable cause hearing when  
37 detained on probation or parole violations.

38 (q) To make at least two free telephone calls within an hour  
39 after initially being placed in a facility of the Division of Juvenile  
40 Facilities following an arrest.

1     ~~SEC. 2.~~

2     ~~SEC. 4.~~ Section 1712.1 of the Welfare and Institutions Code  
3 is amended to read:

4     1712.1. (a) A ward confined in a facility of the Department  
5 of Corrections and Rehabilitation, Division of Juvenile Facilities,  
6 shall be encouraged to communicate with family members, clergy,  
7 and others, and to participate in programs that will facilitate his  
8 or her education, rehabilitation, and accountability to victims, and  
9 that may help the ward become a law-abiding and productive  
10 member of society. If the division or a facility requires a ward to  
11 provide a list of allowed visitors, calls, or correspondents, that list  
12 shall be transferable from facility to facility, so that the transfer  
13 of the ward does not unduly interrupt family and community  
14 communication.

15     (b) ~~IF (1) A ward shall be allowed a minimum of four telephone~~  
16 ~~calls to his or her family per month. Except in cases where it is~~  
17 ~~documented that such contact is not in the best interest of the child,~~  
18 ~~if the ward has a child, the ward may communicate, both over the~~  
19 ~~phone telephone~~ and in writing, with all of the following persons  
20 in order to aid in the attachment and involvement of the ward in  
21 his or her child's life, to increase the ward's ability to parent the  
22 child, and to reduce the detrimental impact on the ward's child as  
23 a result of having an incarcerated parent:

24     ~~(1)~~

25     (A) The ward's child.

26     ~~(2)~~

27     (B) The other parent of the child.

28     ~~(3)~~

29     (C) Any caregiver, social worker, teacher, or physician of the  
30 child.

31     ~~(4)~~

32     (D) Any other person involved with the upbringing and  
33 caretaking of the ward's child.

34     ~~(e) A ward shall be allowed a minimum of four telephone calls~~  
35 ~~to his or her family per month. A~~

36     (2) A restriction or reduction of the minimum amount of  
37 telephone calls allowed to a ward shall not be imposed as a  
38 disciplinary measure. If calls conflict with institutional operations,  
39 supervision, or security, telephone usage may be temporarily  
40 restricted to the extent reasonably necessary for the continued

operation and security of the facility. When speaking by telephone with a family member, clergy, ~~or counsel~~ *counsel, or any other individual included in paragraph (1)*, a ward may use his or her native language or the native language of the person to whom he or she is speaking. *Nothing in this section shall be construed to limit any right defined by any other statute.*

~~(d)~~

(c) (1) If a ward's visitation rights are suspended, division or facility staff shall be prepared to inform one or more persons on the list of those persons allowed to visit the ward, if any of those persons should call to ask.

(2) The division or facility shall maintain a toll-free telephone number that families and others may call to confirm visiting times, and to provide timely updates on interruptions and rescheduling of visiting days, times, and conditions.

(3) (A) The division shall encourage correspondence with family ~~or clergy~~, *clergy, counsel, or any other individual included in paragraph (1) of subdivision (b)* by providing blank paper, envelopes, pencils, and postage. Materials shall be provided in a manner that protects institutional and public safety.

(B) When corresponding with a family member, clergy, ~~or counsel~~ *counsel, or any other individual included in paragraph (1) of subdivision (b)* in writing, the ward may use his or her native language or the native language of the person to whom he or she is writing.

(C) Blank paper, envelopes, and pencils shall not be deemed contraband nor seized except in cases where the staff determines that these items would likely be used to cause bodily harm, injury, or death to the ward or other persons, or, based on specific history of property damage by the individual ward, would likely be used to cause destruction of state property. If the staff asserts that it is necessary to seize materials normally used for correspondence, the reasons for the seizure shall be entered in writing in the ward's file or records.

SEC. 5. *If the Commission on State Mandates determines that this act contains costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made*

- 1 *pursuant to Part 7 (commencing with Section 17500) of Division*
- 2 *4 of Title 2 of the Government Code.*

O